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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,000	12/17/1999	MICHAEL WAYNE BROWN	AUS990846US1	9662

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Bracewell & Patterson L.L.P.  
Intellectual Property Law  
P.O. Box 969  
Austin, TX 78767-0969

EXAMINER

LUU, SY D

ART UNIT PAPER NUMBER

2174

DATE MAILED: 08/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/466,000	BROWN ET AL.
	Examiner Sy D Luu	Art Unit 2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 13 June 2002.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-13, 16-18, 20-66 and 71-82 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13, 16-18, 20-66 and 71-82 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Disposition of Claims**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This communication is responsive to Amendment B, filed 6/13/2002.
2. Claims 1-13, 16-18, 20-66 and 71-82 are pending in this application. Claims 1, 33, 62, and 76-78 are independent claims. In the Amendment B, claims 71-82 were added, claims 19 and 67-70 were canceled, and claims 1, 24, 26, 31, and 42-43 were amended. This action is made Non-Final.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Allowable Subject Matter***

4. The indicated allowability of claims 29-30 and 59 is withdrawn in view of the newly discovered reference(s) to Halverson (US 6,301,564 B1). Rejections based on the newly cited reference(s) follow.

***Claim Objections***

5. Claims 13-15 are objected to because of the following informalities: it is noted that claims 13-15, as provided in the Amendment B, were not amended. Although these claims were indicated as "unchanged", they are not the same as presented in the Preliminary Amendment A. The Examiner will assume that an error was made on the part of the Applicant, and will treat these claims as were originally presented in the previous Amendment A. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1, 3, 12-17, 20, 31, 33, 42-43, 46-49, 52, 54, 60,65 and 77-79 are rejected under 35 U.S.C. 102(e) as being anticipated by Tso et al. ("Tso", US 6,047,327).

As per independent claims 1 and 71, Tso teaches a method for specifying an electronic food menu, said method comprising the steps of:

retrieving a plurality of food menu items from a data storage medium, comparing said plurality of food menu items with previously stored food preferences for a particular customer, and presenting a food menu, wherein said plurality of food menu items that satisfy said food preferences for said particular customer are designated on said food menu, such that an electronic food menu is specified for a particular customer (col. 15, line 57 – col. 16, line 8).

As per claim 3, Tso teaches the graphically displaying only said plurality of food menu items of said selected food menu that are designated (col. 15, lines 66-67).

As per claims 12, 14, 16 and 17, Tso teaches the steps of: graphically displaying said selected food menu according to a generic style sheet, receiving said plurality of food menu items via a network connection or in a data transmission protocol, and transmitting said food menu items in an extensible mark-up language protocol (col. 3, lines 16-18; col. 16, lines 15-16).

As per claims 13, 15 and 47 Tso teaches the steps of receiving said plurality of food menu items via a wireless transmission medium (fig. 1, col. 3, lines 2-3; col. 4, lines 15-20); and receiving said plurality of food menu items via a wired connection, and a socket interface for receiving said plurality of food menu items via a wired connection (fig. 1, col. 3, lines 4-5).

As per claim 20, Tso teaches the step of transmitting said previously stored food preferences for said particular customer to said data storage medium for storage (col. 15, lines 40-50; *inherent in order to allow the system to manage/update user's preference information*).

Claims 31, 33, 42-43, 46, 48-49, 52, 54, 60 and 65 are similar in scope to claims 1, 3, 12-14, 16-17, 20, 14, 1, and 20 respectively, and are therefore rejected under similar rationale.

As per claim 77, Tso teaches said food preferences to include health ratings preferences for said particular customer (col. 15, lines 62-64; *vegetarian e.g.*).

Claims 78-79 are individually similar in scope to claim 77, and is therefore rejected under similar rationale.

***Claim Rejections - 35 USC § 103***

8. Claims 2, 4-9, 11, 32, 34-39, 41, 44-45, 51, 53, 61-62, 64, and 71-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al. ("Tso", US 6,047,327).

As per claims 2, 4-9 and 11, Tso does not explicitly teach the steps of graphically displaying said selected food menu according to a output preference for said particular customer, such that the graphical representation of said selected food menu is provided to accommodate/designate: (a) a display preference for said particular customer; (b) displaying the selected food menu in order from designated food menu items to non-designated food menu items; (c) graphically distinguishing the food menu items that do not satisfy the customer's food preferences from those items that do satisfy (d) a tactile-detectable graphical representation; (d) a particular font size; (f) a particular language; (g) particular currency; and (h) graphically printing said selected food menu for said particular customer. Official Notice is given that these features are all well known in the art of graphical presentation of menu options for selections. It would have been obvious to an artisan at the time of the invention to further combine/include these features with the method of Tso in order to aid/facilitate users in viewing and comprehension as well as interface interactions.

Claims 32 and 34-39 are similar in scope to claims 2 and 4-9 respectively, and are therefore rejected under similar rationale.

Claim 41 is similar in scope to claims 11, and is therefore rejected under similar rationale.

As per claims 44-45, although Tso teaches wireless communication, Tso does not teach said wireless communication element to support communication via a radio frequency

transmission and via an infrared transmission. Official Notice is given that both radio frequency and infrared transmission are well known in the art. It would have been obvious to an artisan at the time of the invention to include the use of either one of these features with Tso's method as a choice of design implementation.

As per claim 51, Tso teaches a data storage medium comprising said previously stored food preferences for said particular customer, wherein said previously stored food preferences for a particular customer comprise a plurality of food and health ratings (col. 15, lines 62-64; *vegetarian e.g.*). Tso does not disclose the data storage medium to be a local storage medium. However, Official Notice is given that the use of local data storage for storing information transmitted/downloaded from a remote source is well known in the art. It would have been obvious to an artisan at the time of the invention to include a local storage medium for such use in order to provide quick recall of selected menu items even if the communication is dropped.

As per claim 53, Tso does not expressly disclose a local data storage medium for storing said selected food menu, such that said selected food menu is recallable from said local data storage medium. Official Notice is given that the use of local data storage for storing information transmitted/downloaded from a remote source is well known in the art. It would have been obvious to an artisan at the time of the invention to include a local storage medium for such use in order to provide quick recall of selected menu items even if the communication is dropped.

Claims 61-62 and 64 are similar in scope to claims 5, 2 and 6 respectively, and are therefore rejected under similar rationale.

As per claim 71, Tso does not explicitly disclose the step of designating those food menu items that do not meet said food preferences. However, it would have been obvious to an artisan at the time of the invention that such a step is included in Tso's method so that food menu items that satisfy an individual's preferences are distinguished from those that do not.

Claims 72 and 73 are individually similar in scope to claim 71, and are therefore rejected under similar rationale.

9. Claims 10, 18, 40, 50 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al. ("Tso", US 6,047,327) in view of Camaisa et al. ("Camaisa", US # 5,845,263).

As per claim 10, Tso does not teach the step of transmitting auditory output of said selected food menu for said particular customer. Camaisa teaches an interactive visual food ordering system, wherein vendors of products maintains a multimedia database containing information about the products such as video and sound (col. 7, lines 18-20). It would have been obvious to an artisan at the time of the invention to combine Camaisa's teaching with the method of Tso in order to further enhance an user's interactive experience while in the process of ordering food products.

As per claim 18, Tso does not teach the step of accessing said plurality of food menu items from a database, wherein each of said plurality of food menu items comprises a plurality of food and health identifiers. Camaisa teaches a plurality of food menu items as well as said previously stored food preferences for a particular customer to comprise a plurality of food and health identifiers (col. 3, lines 49-52). It would have been obvious to an artisan at the time of the invention to combine Camaisa's teaching with the method of Tso in order to provide users with a means to provide users with nutritional as well as health information.

Claims 40, 50 and 63 are similar in scope to claims 10, 18 and 10 respectively, and are therefore rejected under similar rationale.

10. Claims 21, 26-27 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al. ("Tso", US 6,047,327) in view of Freeman et al. ("Freeman", US 6,068,183).

As per claims 21 and 26-27, Tso does not teach the step of determining and receiving electronic coupons. Freeman teaches a method of delivering information of interest an user's communication device including the steps of determining, filtering and receiving electronic coupons for items of interest to provide a particular customer (col. 1, lines 56-58; col. 2, lines 8-10). It would have been obvious to an artisan at the time of the invention to combine Freeman's teaching with Tso in order to help introduce items pertaining to user preferences.

Claim 58 is similar in scope to claim 26, and is therefore rejected under similar rationale.

11. Claims 22-25, 28, 55-57 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al. ("Tso", US 6,047,327) in view of QuikOrder Press Release ("QuikOrder").

As per claim 22, although Tso teaches the step of submitting a reservation, Tso does not explicitly disclose the step of placing an order for food menu items. QuikOrder teaches a method for specifying an electronic menu comprising the steps of receiving an order from said particular customer for food menu items from said selected food menu; and transmitting said order to an order retrieval system (page 1, section E). It would have been obvious to an artisan at the time of the invention to include QuikOrder's teaching with Tso's method in order to complete the reservation with an order, thereby increasing the efficiency in time management for both the food establishment as well as for the user.

As per claims 23-25 and 28, Tso and QuikOrder do not expressly disclose: the steps of graphically printing said selected food menu for said particular customer, confirming electronic payment for said order, adjusting a waiting period for said order in accordance with said food preferences for said particular customer, and updating an electronic calendar with said food menu items and said electronic coupons that are specified for a particular time period. Official Notice is given that these features/steps are all well known in the art. It would have been obvious to an artisan at the time of the invention to include these steps with the method of QuikOrder and Tso in order to allow vendors/users perform and track appropriate on-line processing.

Claims 55-57 and 66 are similar in scope to claims 24, 23, 25 and 22 respectively, and are therefore rejected under similar rationale.

12. Claims 29-30 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al. ("Tso", US 6,047,327) in view of Halverson (US 6,301,564 B1).

As per claims 29 and 59, Tso does not teach the steps/means for comparing said plurality of food menu items with a plurality of previously stored food preferences for a plurality of customers, and selecting a food menu wherein said plurality of food menu items that satisfy said previously stored food preferences for said plurality of customers are distinguished, such that an electronic food menu is specified for said plurality of customers. This is what Halverson teaches (abstract). It would have been obvious to an artisan at the time of the invention to combine Halverson's teachings with Tso's method in order to provide a compromising menu which would satisfy a plurality of customers.

As per claim 30, the method of Tso and Halverson does not teach the use of electronic coupons. Official Notice is given that electronic coupons are well known in the art. It would have been obvious to an artisan at the time of the invention to include such a feature with the method of Tso and Halverson in order to further promote the food menu items as well as to encourage the plurality of customers to try out.

13. Claims 74-76 and 80-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al. ("Tso", US 6,047,327) in view of Del Giorno ("Camaisa", US # 5,899,502).

As per claim 74, Tso teaches a method for specifying an electronic food menu, said method comprising the steps of: retrieving a plurality of food menu items from a data storage medium, comparing said plurality of food menu items with previously stored food preferences for a particular customer, and presenting a food menu, wherein said plurality of food menu items that satisfy said food preferences for said particular customer are designated, such that a customized electronic food menu is specified for a particular customer (col. 15, line 57 – col. 16, line 8). Tso does not teach the plurality of food menu items that are indicated to be avoided by the food preferences to be designated. Del Giorno teaches a method for customizing an electronic food menu for a particular customer wherein food menu items that are indicated to be avoided by the customer's food preferences are designated (*abstract*). It would have been obvious to an artisan at the time of the invention to combine Del Giorno's teaching with the Tso's method in order to provide a customized menu which is attentive and accomodating to a particular customer's health needs and concerns, for example allergies.

Claims 75-76 are individually similar in scope to claim 74, and are rejected under similar rationale.

As per claim 80, Tso does not teach said food preferences to include attributes of specified allowable ingredients and specified avoided ingredients for said particular customer. Del Giorno teaches a method for customizing an electronic food menu for a particular customer wherein specified allowable as well as avoided ingredients are designated according to said particular customer's food preferences (*abstract*). It would have been obvious to an artisan at the time of the invention to combine Del Giorno's teaching with the Tso's method in order to provide a customized menu which is attentive and accomodating to a particular customer's health needs and concerns, for example allergies.

Claims 81-82 are individually similar in scope to claim 80, and are rejected under similar rationale.

#### ***Response to Arguments***

14. Applicant's arguments with respect to the independent claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kaplan et al. (US 6,401,034 B1)

Elliott (US 6,366,220 B1)

Sloane et al. (US 6,343,530 B1)

Kolawa et al. (US 6,236,974 B1)

Ogasawara (US 6,123,259)

Tijerino (US 6,405,034 B1)

Suzuki (US 6,129,274)

Greer et al. (US 5,969,316)

*Inquires*

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is **(703) 305-0409**. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm (EST). The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238 [After Final Communication]

(703) 746-7239 [Official Communication]

(703) 746-7240 [For status inquiries, Draft Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Sy D. Luu  
Patent Examiner  
August 19, 2002